THE INSPECTORS OF ELECTION

The Motion for a Mandamus to Compel the Mayor to Unmake His Appointments of Inspectors Denied.

THE REFORMERS OUTGENERALLED.

Mayor Hall in Court as His Own Counsel—He Reads His Own Affidavit.

JUDGE BARNARD'S DECISION.

The case of The People vs. The Mayor for a mandamus to compel the Mayor to appoint new inspectors of election came up yesterday in the Court of Oyer and Terminer. Judge Barnard took his seat on the bench as early as half-past ten o'clock. Long before that hour the court room was filled to overflowing. A large number of reform notabilities occupied seats within the railing and watched the proceedings with the greatest interest. Sheriff Brennan occupied a seat on the bench beside Judge Barnard. Ex-Deputy Comptroller Storrs and a large contingent from the Comptroller's office filled the ante-room leading to the Grand Jury chamber. Judge Barnard having taken his seat, and

The Clerk having called on the case—the subject of so much interest—Mr. Strahan made his application in form for a writ of mandamus to compel the Mayor to remove some of the inspectors of election appointed by him and to appoint others in their stead. The application was based upon affidavits which have been already published.

In answer to these the Mayor read the affidavit of Mr. Cardozo, Chief Clerk, in which that gentleman testified that in those cases in which it was stated

THAT CERTAIN INSPECTORS

were not fit to hold their positions and could not conscientiously discharge their duty, he had called upon the deponents, and that they had informed him that they had not made the affidavits from information and belief, but from "opinion" that the inspectors would not conscientiously perform their duties. One of these deponents was James Healy, who is running for Assembly in the First ward, and whose affidavit set forth that the deponent had not desired to make the affidavit submitted by Mr. Strahan, but had done so simply at the request of Mr. John Foley, and that he did not know, except from hearsay, that there were any improper appointees acting as inspectors of election.

An affidavit by James Fitzgerald, of No. 393 Washington street, stated that Fitzgerald, whose affidavit had been submitted by Mr. Strahan, knew nothing positively in relation to improper parties having been appointed as inspectors of election except from conversations with James Burns, one of such inspectors.

An affidavit of Wm. McMahon, who had said that he knew inspectors of election who had been notorious repeaters.

An affidavit of David J. McBride was to a similar effect.

The affidavit of Mr. Turner, clerk in the Bureau of Elections, was to the effect that Mr. Mimne, whose affidavit had been submitted by Mr. Strahan, was not qualified to act as inspector of election, as he had failed to appear and take the oath prescribed by law within twenty days after his election, and that, therefore, his position had been deemed vacant and Mayor Hall had appointed one Middleton to fill it.

The Mayor then said that in answer to those portions of the deponents' affidavits which said that the Mayor had not appointed some inspectors whose names had been submitted to him as having been elected in the different wards he would read his own affidavit.

THE MAYOR'S AFFIDAVIT.

SUPREME COURT.—*The People in the Relation of John Foley vs. A. Oakey Hall, Mayor of the City of New York.*

City and County of New York, ss.—A. Oakey Hall, being duly sworn, deposes and says that he is the defendant in the above entitled action, and for the purpose of moving to quash the writ of alternative mandamus makes this affidavit:—

He deposes that there are three hundred and ninety election districts in the county of New York, constructed, and as the law phrases it, "established," by him as Mayor geographically or topographically under ... district shall contain more than four hundred electors and to be calculated upon the basis of the last election returns, aided by poll books that contain residences of voters.

That in territorially constructing said districts he was aided by the Aldermen or Assistant Aldermen of the localities affected, and by the chief of the Election Bureau and his assistants.

Deponent annexes hereto schedule A, as containing the result of his labors in the premises mentioned. That the deponent, within a month prior to the election day, and some time before the first day appointed for registration, commenced to acquaint himself, as by law he was directed, with the proportionate number in office of the inspectors duly elected by majority vote last autumn, or duly appointed as being first on the poll of minority or unelected inspectors.

That such inspectors are elected by wards upon general ward tickets. That the inspectors duly declared last autumn by the Board of County Canvassers were only named and publicly advertised in a large number of newspapers, in a schedule denominated "Statement of County Canvass."

That the inspectors duly and mandatorily appointed as minority ones by deponent were also duly named and published in many newspapers.

That thereupon by statute it became the duty of the inspectors so elected or appointed and so notified by advertisement of their election or appointment to appear and be sworn in before and by the Chief of the Election Bureau within twenty days thereafter, or if not appearing then, to be deemed to have by such neglect vacated their offices, as the statute declares.

That ———, of the inspectors so duly elected or duly appointed, complied with the law and are now duly in office, as deponent ascertained and found as aforesaid.

That by operation of law the remaining number of inspectors were not then in office nor entitled to it, except by appointment, as in case of vacancy.

That deponent, although a large number of the new districts were territorially and numerically different from the old ones, and although advised that by new districting there were vacancies created even among elected inspectors, did not so believe, but was of opinion that inspectors, although representing in duty districts of a ward, were, as elected by ward tickets, inspectors within a ward, and therefore entitled to serve in any any new districts.

That accordingly deponent in proceeding to fulfil his duty of filling vacancies, proceeded substantially as appears in a card annexed to his prior affidavit for a postponement. That nevertheless a very large number of the inspectors so appointed to fill vacancies from among those elected or appointed last autumn, and who did not qualify when now duly requested to serve, declined or resigned, and many of those hitherto sworn in also resigned. Thereupon it became necessary for deponent to daily more or less revise the list and fill vacancies. That in schedule B, hereto annexed, appear the forms used in making appointments and filling vacancies.

That upon each day of registration a quorum of a Board of Inspectors, either duly elected or duly appointed last autumn or duly appointed this autumn unto due vacancies, attended at each registration place.

That one advantage of continuing in office on election day the inspectors who acted as registers is that they are most likely to remember the appearance and faces of those voters who on election day present themselves as voters and who previously attended before such inspectors for registration, and that therefore deponent has endeavored as far as possible to insist upon inspectors who have hitherto acted continuing to act upon election day, although disposed, perhaps, to decline or resign.

That on the day and at the hour this writ was served upon deponent there was not any vacancy (as deponent is informed and believes and after due personal inquiry into the same in the records of the Bureau of Elections) in the office of the inspector in any one of the 390 election districts of the county of New York, but that each district at the time of service of the writ herein had two democratic inspectors and one republican inspector duly sworn into office and acting.

That schedule C, hereto annexed (and which is a copy of an official document duly published in the leading newspapers of this morning) contains a transcript from official records of the said inspectors so filling offices aforesaid.

That it is true, as stated in the affidavit of plaintiff, that the two democratic inspectors are of the local organization in democratic politics to which deponent for nearly ten years has belonged, and he avers that the republican ones are (so far as he could ascertain, and as he intended them to be) of that stripe of republicanism known as the Greeley stripe, and of the stripe that believes in republican faith without their belief being controlled by office or hope of office, and are not consequently of the so-called Custom House clique.

That deponent regards the office of inspector as a political office, and so the Statute regards it, because it expressly provides for representation by two political parties; and therefore in making up appointments to vacancies in inspectors this deponent selects from the democratic organization to which he belongs, in the same mode and manner in which, after hearing advice of political friends, he acts upon his best judgment of selection, and appoints all officers delegated to him to appoint. And deponent avers (in answer to the allegations of plaintiff) that while deponent may suffer, until the time for due answer comes, under partisan imputations that he is a peculator or speculator, or negligent official and the like, he will never, on any occasion, without denial suffer himself to be charged with ingratitude or want of fealty to the political organization that for nearly ten years has continuously and enthusiastically honored him with political and official friendship.

And deponent denies that he has any suspicion, knowledge or information sufficient to form belief that there is any objection to any one inspector on the schedule hereto annexed, as to honesty or fraudulent practices, and deponent refers to the affidavit of Daniel Bradley, in plaintiff's papers, as containing the only one allegation made by plaintiff of a specific character against all of the 1,170 inspectors in the county, and after admission by plaintiff of the most extensive inquiry. This allegation deponent immediately investigated, and with the result appearing in the affidavit of ———, herewith submitted.

Deponent also submits other affidavits distinctly showing who loosely and recklessly the plaintiff, who is himself a candidate for office and suffrage, has made general allegations, and in a positive manner and not upon information and belief, and which affidavits herewith submitted contradict every material allegation of the plaintiff and his co-laborers.

And deponent avers it to be false that any of the inspectors appointed by him were, to his knowledge, unable to read or write, and that the contrary is the ascertained fact, inasmuch as each one of the inspectors subscribes an oath before the Chief of the Election Bureau, and is by him, or one of his assistants, examined as to his fitness as by statute commanded.

And deponent further avers that the plaintiff has no standing in law as a plaintiff in a mandamus action to compel the deponent as Mayor to appoint Inspectors of Election.

And deponent further avers that he has, as Mayor, the sole power to select inspectors of election to fill vacancies, and that in exercising his selection he acts subject to the stringent provisions of section 30 of the Local Election law making it a felony for him to wilfully neglect his duty therein or to be guilty of any corrupt conduct or practice in the exercise of his duty.

And deponent further avers in respect to the general charges of plaintiff about the system of appointing inspectors in the city of New York, that such alleged system was last year as now, and that although the whole power and espionage of the federal government and under a stringent law, faithfully and vigilantly, and perhaps oppressively, followed and observed by the able federal judges, and Marshal and District Attorney were brought into exercise to criticise deponent's appointments then of inspectors, and to ascertain if fraudulent practices existed in taking and counting ballots or making returns, less than twenty inspectors were charged with wrong doing and were not prosecuted because of insufficiency of legal evidence, and no frauds were specifically charged or deemed worthy of investigation, except in one Assembly district.

And deponent instances the foregoing as the best answer to be made to plaintiff's general charges as to the enormity and extent of the election frauds usually existing or to be anticipated for the approaching election, and which charges have been made almost in stereotyped form during the twenty years deponent has been in public life, and immediately preceding or following an election, and by one party or the other, according as each party may be out or in or having or not having lawful control of the election machinery of districts, counties or States. A. OAKEY HALL.

Sworn to before me, this 6th day of November, A. D., 1871—D. J. HART, Commissioner of Deeds.

Judge BARNARD—I do not think, from the view I take of these proceedings, that it is at all necessary to discuss any legal questions that might arise here, or elsewhere, whether on the part of the people or of the defendant. The case, as it at present stands, is not in such a shape as to dispose of it now at all events. The allegations that are contended for in the morning papers having been all contradicted, or the material part of them, an issue is created, and consequently that issue must go on the calendar and be regularly held in its order and at the proper time. An issue being thus raised I must quash the motion for a mandamus and the plaintiffs may then proceed to try that issue by putting their case on the Circuit calendar of the Court for trial.

Mayor HALL—I rise, Your Honor, to move to quash the motion for a writ because on its face it calls for that which cannot be granted. Your Honor is too familiar with the law of mandamus not to know that a man who has the power of appointment, when it appears in the morning papers that he has already made that appointment, cannot be forced by mandamus to alter it or to make it any particular way, or to unmake what he has made. Your Honor cannot accede to any such sophistry as that. The moving papers of the plaintiff show that a number of inspectors of election were appointed according to law in this county and to act as such inspectors on Tuesday next, and the substance of their application is that by some novel process of law, for which no authority is shown, but for which a precedent is now sought to be made, some of these legally appointed inspectors are to be scooped out and others put in their place. Your Honor is furnished with numerous cases in the law books where a board or individual is compelled to make an appointment, mandamuses have issued to compel the board or individual to make the necessary appointment; but no one ever heard of a mandamus being issued to compel the board or individual to make such appointment in a particular way, or in favor of a particular individual. And, therefore, in moving to quash this writ, it seems to me, on the affidavits of the plaintiffs, that no issue can be made or is made. Putting it on the calendar for trial would be something like the motion once made before Your Honor at General Term, on a writ of error, I think it was. You asked, What became of the defendant? when some of the parties interested replied that he

WAS HUNG,

a fact of which counsel in the case had been ignorant. Now, after these inspectors having performed their duties to-morrow, it seems to me it would be somewhat like trying the case of the man who was already hung. I therefore ask Your Honor to dismiss the motion at once, as there is in reality no issue raised; as the honest, uncontradicted affidavits submitted by him had effectually disposed of the case, there being no additional affidavits presented on the other side rebutting the facts set forth.

The COURT—I think I should have quashed this motion long before, only that I was about to tell you what view I take of it. An issue of fact having been created here it would be necessary to put the case on the Circuit calendar of the Court for trial, and it being there it could not be possibly reached, in its regular order, under three years from to-day. That being the case, and the election having to take place to-morrow, and probably three or four other elections within the period of these three years, it would be absurd to put such a case on the calendar. The proper alternative under the circumstances for the Court is to inform the counsel for the plaintiffs that the motion must be quashed. It cannot be otherwise than quashed. If counsel wants the case to go upon the calendar and to remain there for three years he can have it.

Mayor HALL said that it was no wonder that the case for the other side was a weak one, as it had been gotten up entirely to influence public opinion through the newspapers. He (Mayor Hall) had demolished, he believed, the positions taken by his opponent for the purpose of setting public opinion right through the medium of the newspapers.

Judge BARNARD said that he had arrived at his opinion in the matter from facts patent in the case, and he hoped that his decision would be subjected to public opinion through the medium of the press.

Mr. STRAHAN said that Mayor Hall had admitted that he had been talking for newspaper effect, but he denied the right of the Mayor to ascribe a similar design to him. He was there to make an effort, on behalf of the people, that proper men should act as inspectors of election, so that ballots should be fairly deposited and faithfully counted on election day. This was the spirit of the law, and the intention of the law, which gave to the Mayor the power to appoint these inspectors. It was contemplated that he would appoint none ... could neither read nor write, who were non-residents of the districts in which they were appointed to act, or who were of grossly immoral character. The Mayor had said that no vacancies existed, but if he had made appointments which would result in a defeat of the honest intent of the law, or had, in making these appointments, failed to comply with any of the requirements of the law, such appointments were void, and vacancies did exist in all such cases, and it was the object of this application to compel the Mayor to obey the spirit and intent of the law, by making only proper appointments.

Judge BARNARD—I find no fault with the statements made by counsel in relation to the spirit and intent of the law, or of the obligations of Mayor Hall in respect thereto; but the trouble is that counsel has not conclusively shown that Mayor Hall had violated or intended to violate the law; in fact, there was nothing before him to indicate that Mayor Hall had made improper appointments, or that any vacancies existed in the office of inspector of election.

Mr. STRAHAN contended that he had shown by affidavits that it had been the practice for a number of years for Tammany Hall to appoint inspectors of election in its own interest, and that the Tammany leaders had a representative in each ward to ascertain and report such men, who were appointed on the recommendation of such representatives, for the special purpose of furthering the ends of Tammany Hall.

Judge BARNARD—I see no difference in the mode of conducting elections in this city as compared with cities elsewhere. In all cities, in all elections held therein, all parties to such elections cheated when they got a chance.

Mr. STRAHAN said that many of the present inspectors of election had held office as such inspectors, as appeared by his affidavits, when ballot-box stuffing and false counting had been notoriously prevalent in their respective districts.

Judge BARNARD reiterated that his mind was made up and that Mr. Strahan could elect to either have the case put on the Circuit Court calendar or have his application for a mandamus denied.

Mr. STRAHAN refused to draw any form of order to have the case put on the calendar, saying that such a course would place him in the position of acquiescing in a step that was equivalent to a denial of the relief sought.

Mayor HALL, rising—Will your Honor indulge me a moment? There was a very respectable gentleman once hung and after execution he was galvanized into life, when he insisted that the sheriff should allow him to reascend the gallows and to make a speech he had forgotten to make before being previously dropped off. But the sheriff very properly refused the request on the ground that he had been already hung. That is my answer.

Judge BARNARD then formally denied the application.

LUDLOW STREET JAIL DELIVERY.

Sheriff Brennan Refuses to Comply with Judge Barnard's Order.

Among the prisoners in Ludlow Street Jail ordered by Judge Barnard to be released was one John Kenney. The order for his release was duly served on Sheriff Brennan, but the latter, it appears, had meantime taken counsel of his legal advisers, Messrs. Brown, Hall & Vanderpoel, and as the result of such advice he refused to release Kenney. A writ of habeas corpus, it is understood, will be applied for on Wednesday, when the question as to whether Judge Barnard is right or Sheriff Brennan is right will probably be decided. The general supposition is that Judge Barnard knows what he is about. It is claimed on Sheriff Brennan's part that Judge Barnard has no authority under the statutes to order such release. This question, it will be remembered, came up before Judge Barnard when he gave the order. He said that it was the Sheriff's duty to obey his order and look to him to back him up.

SOCIETY AND ITS TROUBLES.

Miss Emily Dearborn Ewer lectured last evening at Cooper Institute before a small audience upon the moral, social and political condition of "Our Society." She said that girls are educated to look out for husbands—they spend their best efforts to get this prize, which is often a blank. Our boys, too, are educated to look for money in marriage. The only suggestion that we can make is to scatter the seeds of truth, to show that marriage is not a mere civil contract, but a union of souls. As it now exists marriage is a farce. But we think that a new system is about to be inaugurated. Marriage will be for all time in this new era. We contend that the best reason for divorce is a want of harmony. They are no longer married and nature steps in with a divorce. Extravagant notions of dress and furniture lead people to spend money that is not their own. In the present state of politics there is a great work that belongs to somebody. Our Ship of State has nearly foundered. What course shall be pursued? Moral honesty must be taught. The example of the City Fathers upon the young is bad in the extreme. We must elect true men. Instead of Tweed, Sweeny and Connolly let us have true men. There is a great work before us. Truth is making progress. Woman is to have her proper place, and the world is open to her. When women vote there will be fewer broken heads and befogged brains after elections. We hold the press and the pulpit largely responsible for the demoralization of society. The pulpit is almost afraid to sp... truth lest it restrict the finances.

THE FIREMEN'S FRIEND.

What Tom Fields, the Corporation Attorney, Has to Say in His Defence—A Substantial "Divide"—Two Hundred Thousand Dollars Counsel Fee Paid by the Firemen—Substantial Sympathy for Disinterested Services.

Mr. Thomas Fields, the Corporation Attorney, like his great chief, "the Boss," awaited his arrest yesterday afternoon, at his office. The morning papers had apprised him that a Sheriff's officer would be looking after him during the day, but he disdained to hide from the humbler officer of that profession of which he himself is so bright and shining a light. When a HERALD reporter called upon Mr. Fields yesterday afternoon he found the Corporation Attorney in his private office, and surrounding the fire were a few consoling friends, who, with cigars and wine, endeavored to impart a cheerfulness to the company which it certainly had no inherent power to put forth. There was about the group the kind of grim mirthfulness that prevails at a funeral.

Mr. Fields had an uneasy gait, and no one of the many easy chairs in the well furnished office seemed quite easy enough for him. Catching the first glimpse of quietude that played for a moment around the capacious brow of the Corporation Attorney, the HERALD reporter thought that a good opportunity for commencing a conversation.

"Mr. Fields, I presume you have some statement to make in reference to this action that has been brought in the Supreme Court against you, and about which the public mind is so agitated?"

"Yes, sir; I shall be glad to state what I think is the true view of the case."

"I will take it down exactly as you state it, sir, and give you the benefit of its publicity."

"These claims, then, sir, are claims for services rendered by certain men as members of different fire companies located north of Eighty-sixth street. They were not voluntary fire companies, but were appointed by the Commissioners created by an act authorizing a paid fire department. They were appointed under the same laws that regulated fire companies south of Eighty-sixth street. They were liable at all times to do fire duty within the district for which they were appointed. No provision was made for the payment of their services. In 1863 a committee on their behalf called upon me and retained me as counsel to obtain for them proper compensation for their services. After an investigation of the matter I came to the conclusion that they had a just, legal and valid claim for payment for such services. I applied to the Legislature for an appropriation to pay their claims. The act of 1869 provides for an audit of the claims and appropriated $50,000 to be paid on account of such sums as might be audited. The claims were audited by Mr. W. Lawrence, of the Comptroller's office, as honest and as incorruptible a man as ever lived. I had nothing to do with the audit. Each foreman was obliged to present evidences of the organization of his company, the name and number of men of his company; the time of the service of each one individual member was also required. He was also required to make affidavit of his appointment; the amount paid was regulated by that which was paid to firemen south of Eighty-sixth street. The act of 1870 simply made provision to pay the amount of the claims authorized to be audited by the act of 1869. Mr. Abbe, the late Fire Commissioner, appeared before the Committee in 1868, when the matter was before the Committee on Municipalities, and urged the passing of the clause in the Tax Levy. The present suit, sir, is, as is apparent to everybody, merely an election document."

"That may be so," replied the reporter, "but perhaps I may be allowed to ask you if there was any audit of these firemen's accounts?"

"The Legislature directed the Comptroller to audit."

"You have not the laws, have you, in which this audit was directed to be made, Mr. Fields?"

"Oh, yes, sir." Mr. Fields searched for these laws and read to the reporter the clauses of 1869 and 1870. In 1869 there was a provision for an audit and the payment of $50,000. In 1870 there was a clause which provided for the payment of indefinite claims without any audit.

"I see there is nothing said about the $50,000 in 1870, and that the affidavits say that you received $459,977 79, and I further see that Mr. Storrs ... the Comptroller's fault; the law provided it."

"You received the money, I see, Mr. Fields; did the men assign their claims to you? I presume, of course, it was only security for your fees."

"Oh, yes; the assignment of claims is common enough, and it was security for my fees."

"The fee was on the 'divide' principle, I presume. Any objections to state in what proportions, Mr. Fields?"

"Well, some companies paid me thirty-three per cent of their claims, others seventeen per cent."

"Exactly; or, in other words, fifty per cent of the entire claim, which in round figures would be over two hundred thousand dollars. That I may consider as the counsel's fee."

"Yes; if counsel and client choose to agree upon terms I don't know that it is anybody's business."

"Of course it is nobody's business but the parties concerned, Mr. Fields. That reminds me; pray, have you seen this afternoon's *Telegram*. It has a summarizing of the affidavits in this case. I should like to ask you if the following passage is true." Reporter reads:—"During the session of the Legislature of 1870 Fields obtained from said men an additional assignment of seventeen per cent, which was very reluctantly given to him. Fields represented that this additional percentage, or allowance, was necessary for special legislative purposes, and that the men, if they did not grant it, would never get a damned dollar."

Towards the latter part of this interview Mr. Fields was evidently under the impression that he was not gaining much for himself by this conversation, and, when the reporter had finished reading the above clause, he looked at Mr. Fields and Mr. Fields looked at the reporter. There was silence for a moment, which Mr. Fields did not break. The reporter, in an off-hand manner, broke the silence by saying, "Of course that is not true, Mr. Fields?"

"That is not true, sir."

"I presume, sir, that we are both pretty well through, and, therefore, I may wish you good day."

"Good day, sir, and I am very much obliged to you."

THE ALLEGED MURDER OF JOHN ROURKE.

No Explanation of the Mystery—Conflicting Testimony.

The mystery connected with the death of John Rourke, late of 305 East Forty-sixth street, who was alleged to have been fatally beaten during a fight in Forty-third street, near Second avenue, early on the morning of the 29th ultimo, has not yet been dispelled and is not likely to be. Most of the important particulars have heretofore been published in the HERALD, but they will bear repeating in brief. Coroner Young yesterday held an investigation, and the testimony adduced was very conflicting.

Thomas and John Gilligan had a quarrel with Patrick Gorman, relative to a prize alleged to have been won by the latter on an excursion of the Larkin Musketeers a week or two previous. About half-past one o'clock on the morning in question deceased and the Gilligans went to the stable where Gorman was employed for the purpose of picking a fight with him, but believing he would not receive fair play Gorman fled, soon after which a number of men wearing red shirts rushed from a neighboring porter house and commenced an assault on the Gilligans, both of whom were knocked down with staves or other missiles, and kicked or beaten. Where deceased was at that time did not appear, and the red-shirted assailants, who were and still remain unknown, escaped. John Gilligan swore before the Coroner that he was struck by a policeman, but Captain Gunner produced the two officers covering that post that night, and they testified to not being there and knowing nothing whatever concerning the fight for several hours afterwards. Both deceased and the Gilligans had been drinking to excess, and it is possible the latter were mistaken about an officer being present and participating in the fight. Nothing more was seen of Rourke for over two hours afterwards, when he was found lying insensible on the pavement near by, his skull having been fractured. There was no evidence adduced to show that deceased had been struck at all, and Dr. Marsh, who made a post-mortem examination, testified that the fracture might have been produced by a fall.

From the testimony presented the jury found "that deceased came to his death by fracture of the skull, the result of injuries received in some manner to them unknown."

All the parties who had been detained as witnesses were then discharged by Coroner Young.

EAST NEWARK EXCITED.

Burying Old Fogyism—The Free Bridge a Verity.

Amid all the excitement incidental to the eve of election day the people of East Newark, in Harrison township, N. J., found time yesterday to rejoice in the accomplishment of a long-wished-for fact—the making free of the old turnpike bridge which unites the two counties of Essex and Hudson. At one o'clock in the afternoon the joint committee of the Boards of Freeholders of the two counties met the Commission, and on receiving the deed paid over the $71,000. On the consummation of the act being announced the gate tender threw open the gates, and amid the booming of miniature cannonry the bridge was declared forever free. There was manifested a great deal of enthusiasm. It is intended on an early day to celebrate the joyous event with a grand parade, fireworks, speeches, collation, &c.

"GOING FOR" PUBLIC DOCUMENTS

Alleged Attempted Larceny from the Register's Office.

Two Hundred and Sixty Mortgage Deeds in Jeopardy—A Serious "Practical Joke" Frustrated by a Vigilant Watchman—Honest Indignation of the "Big Judge"—The Accused Held in Default of $2,000 Bail.

The quietude of the Tombs, which might almost have been considered a *sanctum sanctorum*, was suddenly and most unceremoniously encroached upon at half-past eleven yesterday morning. The Judge (Hogan) was sitting upon the bench examining papers and the officers had huddled together into their corner, bewailing the impecunious state of the city treasury or else the extreme scarcity of *charbon*, and discussing the collapse of the "repeating crowd," when a number of small boys rushed into the Court with their hats under their arms, the usual herald of Police Court sensations. They had but just taken their seats when the doors of the Court leading into the Egyptian porch were flung ruthlessly back on their hinges and the second portion of

THE PROCESSION MADE ITS APPEARANCE.

First came officer Hugh Lynch, of the Twenty-sixth precinct, having in charge John Nevins, a recording clerk in the County Register's office. Following these, again, came Philip Smith and Hugh Brady, two watchmen employed in the Register's Department, the latter carrying an immense bundle of papers, consisting of mortgages, deeds and transfers of property, which ought to have been safely lodged in their various pigeon holes. In the rear of these came a large, portly figure, with a heavy, full, cleanly-shaven face, and hair of that color which speaks of departing youthfulness, closely muffled in a winter overcoat, and bearing in his left hand what might be mistaken for a London alderman's insignia of office—a magnificent black ebony cane, with a gold crown on the top of it. As the general reader might readily imagine, this personage was none other than the present

REGISTER "BIG JUDGE" CONNOLLY.

Advancing to the rail which partitions the bench from the "vulgar" standing room, and presenting the gold end of his cane to the Magistrate, he said "he had not brought a voucher case, but a case of a similar character; instead of vouchers they were *bona fide* mortgage and transfer deeds that had been taken."

"Which is the prisoner?" inquired the Judge on the bench.

"Here he is," said the man of large proportions, and he pointed to Nevins, who had half an inch of black "sticking plaster" on his nose.

"What is the case, then?" said the former.

"The case is simply this," commenced the "Big" Judge, as he took the bundle of deeds from Brady and deposited them on the bench; "this man Nevins was employed in the Register's Department as a recording clerk, and it was his duty to take charge of documents of this character. He knew where they were all kept, in fact. On Saturday night, at about five minutes past six o'clock, when it was the duty of every man in the offices to discontinue labor for the week, Philip Smith, my special watchman, was in the room where Nevins was working and saw him with this bundle of papers on his arm wrapped up in a piece of newspaper. Smith accosted him and asked what had kept him so long, as every one else had gone.

"'I am jist fixin' up the dose of work I've had,' said Nevins; 'but no mather, it's through now, and I'm goin'. Jist you go over to Stone's, and we'll have a dhrink togither before I go home.'

"'Phy do ye take the parepers, John? I guess I'll take no dhrink, and you'll have to give up that parcel of dades, or I'l, I'll raise an alarm,' replied Smith.

"'Get out with ye, ye ould blockhead, and don't till me me business. I know it bether than any man in the office. Go over now, and I'll follow ye this instant.' By this time

NEVINS HAD CARRIED THE PAPERS

to another part of the rooms, and after Smith had made a threat of determination to 'squeal' Nevins pulled open a drawer, unloosed the india-rubber bands and let the deeds fall into it. The deeds, which were 260 in number, were in the hands of the copyists and in the course of being transferred. Now, let me state," continued the Register, "that I was compelled to hire this watchman and pay him myself ... long ago, to supply me with a man to watch the public records at night after the attachés had left, but they refused to allow me to appoint any one at the public expense, so I appointed one at my own cost. You know, Judge, that I was not altogether unmindful that I had a few such enemies, and but for this man these would have been lost and a general public declamation would have been most probably the result. Well, Nevins

TRIED TO GET SMITH OVER TO STONE'S

before he would leave himself, but the old man stuck to the papers and wouldn't 'budge an inch.' Now, Your Honor, I cannot see what benefit these deeds would be to any one. They were all recorded, as all deeds are that enter the office, even the minute of presentation being noted in the blotters of the department, hence they would have been of little value to him—they are not like vouchers, you know. (A laugh.) Of course, if they were destroyed, as they might have been, as a piece of spitefulness against myself for the purpose of raising the public sentiment against me, it would have occasioned considerable difficulty, but the object and intentions of the defendant I must leave for you to determine after sifting the facts.

"What is your defence, Nevins?" asked the Court.

"I can assure Yer Honor that it was nothing more thin a practical joke phat I was trying to play upon one of me colleagues—that's the end, sum and substance of the whole thing," replied the defendant.

"Well we'll take an examination anyway," said the "big man," in response to Judge Hogan's recommendation, "and then we shall perhaps see what's in it."

The case was accordingly adjourned until two o'clock, Nevins being locked up in the meanwhile.

At two o'clock Smith and Brady appeared, and the following affidavit was filed. Smith could not exactly see why they should pick out one paper from 300, and at first objected to swear to the document or subscribe his name; but, on receiving an explanation, he kissed the Bible and sealed the record:—

AFFIDAVIT OF PHILLIP SMITH.

City and County of New York.—Philip Smith, of No. 118 West Houston street, duly sworn, deposes and says, that on the evening of the 4th of November, 1871, John Nevins (now here) did feloniously attempt to take, steal and carry away from the office of the Register of the County of New York, a public office, a number of deeds and mortgages which had been deposited in said office for record, one of said deeds being that of Franz Keilbach and Anna Martha, his wife, to Henry Henning, Jr., dated October 31, 1871, of a certain lot, piece or parcel of ground, with the buildings thereon, situated on the south side of Second street, between avenue A and avenue B, in the Seventeenth ward. Deponent is employed as watchman at the said office of Registry, and on the day named deponent saw said Nevins have in his possession a large bundle which he attempted to take from said office, but which deponent prevented him from doing; when said Nevins found that deponent would not permit him to take away said bundle of deeds of mortgage and transfer papers he placed the contents in a drawer in said office. Deponent examined the contents of the bundle and found it contained the deeds and mortgages as above set forth. PHILIP SMITH.

Sworn to before me, this sixth day of November, 1871.
E. HOGAN, Justice.

The defendant was brought up from his cell and identified by Smith, but in reply to the question of defence now said, "I have nothing to say."

He was ordered to find bail for $2,000, but not having a "friend" present he was again locked up to await the action of the Grand Jury.

NO YELLOW FEVER IN SAVANNAH.

SAVANNAH, Ga., Nov. 6, 1871.

Reports being still industriously circulated of the existence of yellow fever in Savannah, the agent of the Associated Press has made special inquiry of the leading physicians of the city, the city authorities and at the hospitals and among the people, and is authorized, and feels it his duty, to state that there is no foundation for such reports. Not only is the city entirely free from yellow fever or any other infectious or epidemic diseases, but is remarkably healthy. The reports alluded to have been repeatedly and persistently circulated in the face of the most positive denials. The public may be assured of their utter falsity.

NAVAL INTELLIGENCE.

Arrival of the United States Steamer Swatara at Fortress Monroe.

FORTRESS MONROE, Nov. 4, 1871.

The United States steamer Swatara, Lieutenant Commander W. N. Allen commanding, arrived here to-day from the West Indies, via Key West; all on board well. This vessel has been absent on that station two years, and returns for repairs, as her machinery is out of order and she needs a general overhauling. She will probably go to the Norfolk Navy Yard in a day or two, when her officers and men will be assigned to other duty or given leave of absence while the repairs are being made. The officers of the Swatara are as follows:—

Lieutenant Commanding—William N. Allen.
Lieutenant Commander and Executive Officer—W. H. Whiting.
Lieutenants—Edward Longnecker and Henry N. Manney.
Master—E. S. Prime.
Surgeon—T. N. Penrose.
Paymaster—H. T. Spalding.
Chief Engineer—Thomas L. Vanclain.
Assistants—L. F. Strout, A. B. Bashford, H. H. Johnston, J. B. Crayet, George Sands.
Captain's Clerk—William Burkett.

The health of the squadron in the West Indies is very good.

THE COURTS.

Conviction of a Counterfeiter—Assault on the High Seas—Heavy Sentence in the Court of General Sessions—A Warning to City Desperadoes.

UNITED STATES SUPREME COURT.

Decisions—Insurances on the Steamer City of Norwich—Usurious Loans to Railroad Companies—Liability of Sheriffs on Illegal Papers—Liabilities of Towboats—Validity of the Sibley Tent Contract Affirmed.

WASHINGTON, Nov. 6, 1871.

No. 131. *The Howard Insurance Company vs. The Norwich and New York Transportation Company.*—Error to the Circuit Court for Connecticut. The City of Norwich, a steamboat insured by the plaintiff in error, collided with a schooner in such a manner as to cause her to take fire from her furnace, and her light freight being consumed, she sank. The insurance company resisted the payment of their insurance, on the ground that the loss was occasioned by the collision, and not by fire. The Court below instructed the jury that, if upon evidence they found that the boat would have continued to float, so that she would have been towed to a place of safety, had the fire not occurred, the verdict must be for the plaintiff. The jury so found, and their verdict was according. The correctness of this ruling was the main question here, where it was sustained and the judgment was affirmed. Mr. Justice Strong delivered the opinion.

The Western Massachusetts Insurance Company vs. Same.—Error to same point. This cause was argued with the above, and is also affirmed by the same Justice.

No. 161. *The Junction Railroad Company vs. The Bank of Ashland.*—Error of the Circuit Court for the District of Indiana. The question in this case was chiefly whether certain bonds of the railroad company transferred to the Ohio Life and Trust Company, of which the Bank of Ashland was the holder, were transferred to the trust company in pursuance of a pledge of bonds or a sale of them, the defence being that the transaction was a pledge of the bonds for a loan at usurious rates under the charter of the trust company, and that the contract was therefore void. The Court below held the transaction to be a sale of the bonds, and this judgment was assigned as error. This Court now sustains the view of the Court below, and says that if it be admitted that the transaction was a loan, still it was not usurious by the laws of New York, where payment was to be made. It is also said that the laws of Ohio, authorizing railroad companies to sell their bonds and notes at such prices as they may choose, is extended by equity to the companies of other States authorized to transact business in Ohio, and hence the railroad company in this case were authorized to sell, although an Indiana corporation. Mr. Justice Bradley delivered the opinion.

No. 112. *Bartle, &c., vs. Clise.*—Error to the Circuit Court for Wisconsin. This was an action for an escape against the defendant in error as Sheriff. The defence was that the writ under which the prisoner was taken into custody was *ne exeat* in a cause of action arising on contract and was void on its face by the terms of the State constitution, and afforded the Sheriff no protection against false imprisonment, in case he attempted to execute it; that it sought, in fact, imprisonment for debt, which was not permitted by the State constitution. It was also pleaded that the prisoner had been discharged on a writ of habeas corpus, but objection was made that the prisoner fled before judgment was pronounced and that the opinion written in the case should not be admitted as evidence. The Court below admitted the opinion and sustained the defence; this Court affirms that good ground. Mr. Justice Swayne delivered the opinion.

No. 171. *Steamboat Syracuse vs. Langley.*—Appeal from the Circuit Court of the Southern District of New York. This was a libel against the Syracuse for damages done to a canal boat while in her tow. The decree below was for the libellant, and the cause came here, the appellants claiming that by contract the canal boat was being towed at its own risk, and that there was no negligence on the part of those in charge of the Syracuse to make her responsible for the disaster. This Court say it is unnecessary to consider the question of the contract of towage, because, if there was such a contract as that, the canal boat was being towed at its own risk; still the steamer is liable if, through the negligence of those in charge of her, the canal boat suffered injury. Although a towing boat is not charged with the same responsibility as a common carrier, it is required of those engaged in the management of such boats that they exercise reasonable care, caution and maritime skill. Upon an examination of the evidence in the case it is concluded ... Mr. Justice Davis delivered the opinion.

No. 158. *United States vs. Burns.*—Appeal from the Court of Claims. In this case the Court of Claims gave the plaintiff judgment for the use by the government of the Sibley tent, the plaintiff being by assignment part owner of the contract made with the government by Major Sibley. The department had refused to pay on the ground that the payment would be a violation of the army regulations. The Court is of the opinion, from the facts found below, that the Sibley contract was valid, and that it is not within the prohibitions of the army regulations pleaded. The judgment is therefore affirmed. Mr. Justice Field delivered the opinion.

No. 166. *Holliday vs. Kennard.*—Error to Circuit Court for the Southern District of New York. In this case the Court below gave Kennard judgment for the loss of a ten thousand dollar package by the Overland Stage Company; holding that robbery by the Indians did not exonerate this carrier unless he was without negligence, which was found. This Court affirm that judgment, substantially sustaining the rulings below. Mr. Justice Bradley delivered the opinion.

No. 170. *United States vs. Noys, Administrator of Alexander.*—Appeal from the Court of Claims. In this case the Court of Claims gave judgment to the administration for arrears of pension alleged to be due to Mrs. Alexander under the act of 1853, taking the view that the provisions of that act granted pensions under it from March, 1848. This Court held that in view of the action of the department in such cases for so long a period, and considering certain claims of the law, the widow was not entitled to the pension prior to the date of the act, and that the judgment below was erroneous; it is therefore reversed, and the cause remanded with directions to dismiss the petition. Mr. Justice Miller delivered the opinion.

UNITED STATES CIRCUIT COURT—CRIMINAL TRIALS.

Yesterday Judge Benedict sat in the United States Circuit Court and resumed the trials of criminal cases:—

Conviction of a Counterfeiter—"Not Guilty" and "Guilty."

The United States vs. Rhoda.—The defendant was put upon his trial for having had counterfeit money in his possession, with intent to pass the same. Mr. Purdy and Mr. De Kay prosecuted on behalf of the government. Mr. Tremain defended the prisoner. The principal witness for the prosecution was a detective in the Secret Service Department, a German named Bauers, who deposed to the usual plan of operations with which those detectives are so familiar, namely, worming themselves into the confidence of intended victims, and then sacrificing them under the unsparing knife of justice. Bauers deposed to having obtained a ten dollar counterfeit bill from the prisoner, for which he paid him $3 50. A great deal of evidence was given tending to show that the accused had been connected with counterfeiting operations in New Jersey; and counsel for defendant sought to exclude it on the ground that it did not in any way bear reference to the present charge against the prisoner. The Court, however, thought otherwise, inasmuch as the transactions were so recent as to show knowledge and intent on the part of the accused. Witnesses were produced to impeach the character of Bauers for truth and veracity. Some of them stated that they would doubt his testimony in a case where he was personally concerned. On the other hand Bauers called a number of witnesses to prove that he was a man of good repute and standing; that, in the language of one of the witnesses, "he was a first class man." In cases of this kind it does not seem to be very pertinent to inquire what a man's religious belief is; yet we have noticed in this and other cases of a similar character the Assistant District Attorney putting such questions, apparently with no other object than to raise a doubt as to whether a person of a particular religious profession would or would not tell the truth. In England if a person called as a witness says he does not believe in the Bible or Christianity his testimony is at once rejected; but if he takes an oath on the Holy Book to tell the truth there is no further question upon the score of his religious belief.

Mr. Tremain summed up the evidence for the defence in a concise and careful manner.

Mr. Purdy, for the government, was brief and to the point.

Judge Benedict did not delay the case with any intricacies of law.

The jury retired, and after a very brief consultation returned into Court with their verdict.

CLERK—Gentlemen, have you agreed upon a verdict?

FOREMAN—Yes.

CLERK—Is the prisoner guilty or not guilty?

FOREMAN—Not guilty.

There was some movement among the jury.

The Clerk looked at the Judge and the Judge looked at the Clerk and at the jury, among whom the announcement of the foreman had apparently caused surprise. There was some mistake. The jury was then polled and the result was a verdict of guilty.

Mr. Tremain moved that the verdict first announced should be entered.

The prisoner was then remanded.

Sentences Upon Prisoners.

George Hoffman was sentenced to three years at hard labor in the Queens county Penitentiary for passing counterfeit money. George Wedtken, who had been indicted for the same offence, was released on $1,000 bail.

Alleged Stabbing on the High Seas.

John Aldo, a Chinaman, was put upon his trial, charged with stabbing Sidney Barber, on board the bark Thomas R. Bowen, on the high seas, on the 30th of May. Case still on.

The Civil Jury Calendar.

The civil jury calendar of this Court will be called at eleven o'clock A. M. on Wednesday, the 8th inst., by Judge Woodruff. Judge Blatchford will at the same time call the jury calendar in the District Court.

COURT OF OYER AND TERMINER.

Trial of Izzy Lazarus Postponed.

Before Judge Barnard.

The expected trial of Izzy Lazarus for alleged fraudulent registration, set down for yesterday, attracted a large crowd. The Judge stated his incapacity to hold the court owing to having to sit in Chambers and General Term, and, therefore, ordered the discharge of the jury and relieved the witnesses from further attendance until again summoned to appear. No day was set down for the trial.

SUPERIOR COURT—GENERAL TERM.

Decision.

Before Judges Monell and Jones.

William R. W. Chambers vs. John W. Durand et al.—Order reversed, but without prejudice to a new application for another order of arrest.

COURT OF COMMON PLEAS—GENERAL TERM.

Decisions.

The General Term of the Common Pleas Court met yesterday and rendered the following decisions:—

John Graham et al. vs. John Fitzgerald et al.—Judgment rendered; new trial ordered; costs to abide event.

Catharine Scullin vs. William Nolan.—Judgment reversed; judgment absolute for defendant.

Joseph Begley vs. George C. Care.—Judgment affirmed, with costs.

Jane A. Van Loon vs. Agnes Lyons.—Judgment affirmed, with leave for defendant to appeal to the Court of Appeals.

William E. Broderick vs. The Mayor, &c., of New York.—Judgment reversed and new trial ordered.

C. P. Schermerhorn vs. Fernando Wood.—Order appealed from affirmed.

Evi D. Pond vs. John H. Clark.—Judgment reversed.

Joseph Maier vs. Andrew Homan.—Judgment reserved. New trial ordered.

Elizabeth A. Daly vs. Nathan Randal.—Judgment reversed, with costs.

William H. Paine vs. E. Tracey et al.—Judgment affirmed, with costs.

Coleman Benedict vs. The National Bank of the Commonwealth.—Judgment affirmed.

John D. Levins vs. Charles E. Buckley.—Judgment affirmed.

John McDonough vs. John McDonough.—Judgment reversed.

Van Saun vs. Farley.—Judgment affirmed, with costs.

MARINE COURT.

Before Judge Gross.

Yesterday on the opening of the Court Mr. Furman moved that the Court stand adjourned in respect to the memory of Judge Denio. The motion being seconded, Judge Gross, after briefly alluding to the eminent abilities of the deceased jurist, adjourned the Court and ordered the clerk to make an entry of it on the minutes.

COURT OF GENERAL SESSIONS.

A Notorious Rough Sentenced to Fifteen Years' Hard Labor at Sing Sing—Judge Bedford's Opening Address.

The November term of the General Sessions was opened yesterday, City Judge Bedford presiding. The very first case on the calendar was that of a charge of

ROBBERY IN THE FIRST DEGREE,

against a notorious rough and midnight prowler, named Peter Furlacher. From the subjoined report of the case and its result on the verdict and sentence, it will be seen that the violators of the law, whenever brought up for trial and judgment, will receive no mercy at the hands of the Court. These reckless and wicked men who render our streets unsafe for travel after dark, have their hands ever raised to strike down the unsuspecting and unwary, and ... taught that the strong arm of the law is all powerful to strike them and to deal out that punishment which the measure of their crimes demands. Judge Bedford's sentence in the case is an assurance to the citizens that their lives and properties will be rendered as safe and secure to them as a fearless exercise of the law over criminals can be applied for that purpose.

Peter Furlacher, a young desperado, was charged with robbery in the first degree, under the following circumstances:—

Daniel O'Halloran, the complainant, swore that he was a stone mason and resided at 442 West Fifty-fourth street; that on the night of the 17th of October, while passing along through Fifty-third street, between the Ninth and Tenth avenues, he was approached by the prisoner and another man; the prisoner asked if he (O'Halloran) had five cents, and said, with an oath, that they would see whether he had or not, and immediately gave him, to use his expression, a "chuck" in the neck, whereupon his confederate seized O'Halloran by the arm, thrust his hands into his pocket and took out the pocket book, which contained four $5 bills, three $1 and some small currency. He then had the coolness to return the empty pocketbook, and in company with the prisoner went down the Tenth avenue. The complainant said the reason why he did not shout for help when being attacked and robbed, was that he heard so much talk about shooting and stabbing that he was afraid if he made any resistance he would be stabbed. Shortly after he was robbed he made known his loss to a policeman, and on the succeeding Friday pointed the prisoner out to the officer, positively identifying him as one of the highwaymen. There were no other men near at the time of the occurrence except the prisoner and his companion, who, unfortunately eluded the vigilance of the authorities by getting out of the way.

Officer McMurray testified the complainant apprised him of the robbery on the night of the 18th of October and that he arrested the prisoner on the 20th. The complaining witness first pointed the accused out on the street and afterwards said, when the prisoner was brought to the station house, "I think that is the man:" but when he had a front view of his face said, "That is the man."

Peter Furlacher was sworn in his own behalf and frankly admitted that he met O'Halloran that night, who, when he asked him, gave five cents, but he did not know what the other fellow did. The accused denied striking or having anything to do with robbing him. According to Furlacher O'Halloran was very drunk and asked where Fifty-fourth street was. The defendant said he was a horseshoer, and lived on the corner of Fifty-third street and Ninth avenue. The jury placed no credence in his story, for without leaving their seats they promptly rendered a verdict of guilty.

The prosecuting officer (Mr. Sullivan) moved for sentence, and said that there were four cases against the prisoner marked on the calendar. He sent for the papers and discovered that they were separate charges of assault and battery, but that there was no robbery case other than the one upon which the prisoner was just tried and convicted.

SENTENCE.

Judge Bedford, in passing sentence, said:—"I entirely agree with the jury in the rendition of their verdict in this case. It is a clear case of highway robbery; and honest citizens must be protected at night against thieves, roughs and ruffians. There are four cases against you in the District Attorney's office, and I am informed by the officer that you are a well-known rough and ruffian, and that you go with thieves. For the welfare of society I shall send you to the State Prison at hard labor for the term of fifteen years."

THE DEATH OF JUDGE DENIO.

Before the jury were discharged for the day Mr. Sullivan announced the death of Chief Justice Denio, and paid an eloquent tribute to the deceased Judge, saying that there never had sat upon the bench of any of the courts in this State a lawyer who adorned the Bench with greater learning, with more power of discrimination in reference to the law relating to the different cases which came before him, or with more uprightness of character. His Honor was requested to direct that an official notice of the death of Judge Denio be made upon the minutes of the Court.

Judge BEDFORD said:—I entirely agree, Mr. Sullivan, in the eulogistic remarks which have just emanated from your lips. The lamented deceased was widely known and highly respected by everybody. His death has deprived the Bench of one of its brightest ornaments.

As a mark of respect let the Court stand adjourned till Thursday next and an order be entered.

BROOKLYN COURTS.

SUPREME COURT.

The Fisk-Mansfield Sensation.

The case of James Fisk, Jr., against Edward Stokes, Helen Mansfield and others came up again in the Brooklyn Supreme Court yesterday, on the motion to have the defendants show cause why the temporary injunction restraining them from making public certain correspondence between Fisk and Mrs. Mansfield should not be made permanent. Judge Pratt said that it would not be of any use for counsel to make their arguments as to the injunction, as he had determined to grant the motion to change the venue to New York, and, consequently, that would be the proper place to apply for the continuance of the injunction. He would not file his decision until Wednesday, and the counsel for Mr. Fisk might think the matter over, and if he thought it proper might appeal from the order of the Court or amend the motion in question. The counsel approved of this and the case went over until Wednesday.